

BOARD OF VETERINARY MEDICAL EXAMINERS

Minutes

Date: August 24, 2005

Time: 9:00 a.m., C.S.T.

Location: Cumberland Room
Ground Floor, Cordell Hull Building
425 Fifth Avenue North
Nashville, TN 37247-1010

Members Present: Leland Davis, D.V.M, President
C. Maben Thompson, D.V.M.
Thomas Edmonds, D.V.M.
Mary Welch, D.V.M., Vice-President
Marie Gordon, Consumer Member
Ron Wilson, D.V.M., Ex-officio Member

Members Absent: Jerry Wilhite, D.V.M.
Maryann Grell, L.V.M.T., Secretary

Staff Present: Lisa Lampley, Board Director
Rita Buckner-Shelton, Board Administrator
Nicole Armstrong, Advisory Attorney
Robert Taylor, D.V.M., Board Consultant/Inspector

A roll call vote was taken and upon determination of a quorum being present, the Board meeting was called to order by Dr. Davis at 9:06 a.m.

Approval of Minutes

After reviewing the minutes from the April 20, 2005 board meeting and the May 25, 2005 telephonic board meeting, Dr. Edmonds motioned to approve the minutes as presented. Ms. Gordon seconded the motion. The motion carried.

Conflict of Interest Policy

Ms. Nicole Armstrong, Advisory Attorney, reviewed the conflict of interest policy with the Board members. All members were asked to sign and return the revised conflict of interest policy.

Licensure Applicant Interview

Richard D. Hinson, II, DVM

Dr. Hinson appeared before the board for an interview pursuant to information contained in the “employment/occupation” section of the licensure application which indicated that Dr. Hinson had been practicing in Tennessee without a license since January, 2001. Pursuant to the documentation provided and the responses received during the interview, Dr. Thompson made a motion, seconded by Dr. Edmonds, to grant the license with the following conditions:

- Must submit documentation of all continuing education courses/activities from 2001 – present prior to issuance of license.
- License will be placed on probation for a period of five (5) years.
- Annual appearances before Board.
- Must submit letter from therapist on an annual basis attesting to continued participation, satisfactory work performance and compliance with board laws/rules.
- Must complete twenty (20) additional hours of continuing education each year during probationary period for a total of forty (40) continuing education hours per year.
- Assessed total civil penalties in the amount of \$5, 600.00 for practicing without a license.
- Must advise the Board in writing of any changes in address, employment, or compliance with terms of probation.

The motion carried.

Adam Shonting, CAET

Pursuant to the Board’s request, Mr. Shonting was scheduled to appear before the board for an interview. Mr. Shonting contacted the board office and requested that his application be withdrawn and was not present at the board meeting.

Contested Case – Billy Walker, D.V.M.

Dr. Billy Walker, DVM, was present and was represented by Mr. Dan Warlick. Ms. Brandi Bozarth, Assistant General Counsel, represented the State. The proceedings were presided over by Administrative Law Judge Mattielyn Williams. Dr. Welch recused herself. Dr. Walker was charged with the illegal authorization and ordering of prescription drugs for an employee and leaving a controlled substance in an unlocked room to which employees had access. Mr. Jack Webb, prior Investigator for Health Related Boards, presented testimony regarding his investigation and interviews with the respondent. Dr. Billy Walker, DVM, testified on his own behalf. Closing arguments were then presented by both sides.

Upon deliberation, the Board found the Respondent guilty of willful or repeated violations of board rules; unprofessional or unethical conduct; conduct reflecting unfavorably upon the profession of veterinary medicine; dispensing prescribing, or otherwise distributing any controlled substance or any other drug not in the course of the accepted practice of veterinary medicine; and treating or professing to treat, or issuing any pharmaceutical to, any human. Dr. Thompson made a motion to revoke the license and assess total civil penalties in the amount of

\$6,000.00 and assess costs of the proceedings. Ms. Gordon seconded the motion. A roll-call vote was conducted and the motion carried with Dr. Edmonds abstaining.

Mr. Warlick requested a stay of the order pending an appeal in Chancery Court. Dr. Thompson made a motion, seconded by Ms. Gordon, to deny the request. The motion carried.

Letter of Reprimand – Lisa Henderson, DVM

Dr. Lisa Henderson, DVM, was not present and was not represented by counsel. Ms. Brandi Bozarth, Assistant General Counsel, presented a Letter of Reprimand to the board for ratification. Dr. Henderson failed to provide or procure adequate veterinary treatment for an animal that became ill while boarded in her facility and there were additional entries made to the treatment records of an animal other than those initially provided to the owner. Total civil penalties in the amount of \$1,000.00 were assessed. Dr. Thompson made a motion, seconded by Dr. Edmonds, to accept the Letter of Reprimand. The motion carried.

Consent Order – Nels David Bernander, D.V.M.

Dr. N. David Bernander, DVM, was not present and was not represented by counsel. Ms. Brandi Bozarth, Assistant General Counsel, presented a Consent Order to the Board for ratification. Dr. Bernander operated Caring Hands Animal Hospital without a premise permit from 1997 until May, 2005. Dr. Bernander was assessed civil penalties in the amount of \$2,700.00. Dr. Welch made a motion, seconded by Dr. Edmonds, to accept the Consent Order. The motion carried.

Contested Case – David H. Gordon, Unlicensed

Mr. Dave Gordon, Unlicensed, was present and was not represented by counsel. Ms. Brandi Bozarth, Assistant General Counsel, represented the State. The proceedings were presided over by Administrative Law Judge Mattielyn Williams. Dr. Wilson recused himself. Mr. Gordon was charged with performing pregnancy tests on cattle at the Coffee County Livestock Market. Dr. Jill Johnson, DVM, testified that she had observed Mr. Gordon performing pregnancy checks on the cattle at the livestock market. She further testified that she did not inform Mr. Gordon that the pregnancy testing of the cattle constituted the practice of veterinary medicine. Mr. Gordon testified on his own behalf.

Upon deliberation, the Board found the Respondent guilty of unlicensed practice. Dr. Edmonds made a motion, seconded by Dr. Welch, to assess total civil penalties in the amount of \$2,000.00 and assess costs of the proceedings. The motion carried.

Position Statement – Premise Permit Exemptions

A motion was made and seconded to adopt a position statement regarding facilities that are exempt from obtaining a premises permit. In a Declaratory Order issued by the Board in April 2001, the Board found that a humane society/animal shelter was exempt from obtaining a premises permit (and undergoing the accompanying inspection) pursuant to T.C.A. 63-12-139(i) and Tenn. Comp. R. & Regs. 1730-2-.02(12). It is the Board's position that the exemption from obtaining a premises permit does not exempt such facilities from meeting the minimum

standards established by the Board nor does it exempt licensees employed at the facilities from the general rules governing the practice of veterinary medicine. The Board has the authority to discipline any practitioner or facility which, after investigation and proper hearing, has been found guilty by the Board of a violation of board statutes/rules. The motion carried.

Discussion - American Association of Veterinary State Boards (AAVSB) Conference

Dr. Welch and Ms. Lampley will be attending the annual conference scheduled for September 8 – 11, 2005 in Kansas City, Missouri. Dr. Welch will be the voting delegate. The Board was in favor of the suggested additions to AAVSB's Practice Act Model and instructed Dr. Welch to vote "yes" when the proposal is presented at the delegate assembly. A report from the conference will be presented at the December 2005 board meeting.

Committee to Review Licensure Files and Continuing Education Courses/Presentations

Dr. Thompson agreed to review files which answer "yes" to licensure application questions pertaining to medical conditions, chemical substances, convictions, and disciplinary action taken in another state. Upon review and discussion with Ms. Lampley, a determination will be made regarding a request for a personal appearance before the board by the licensure applicant.

Dr. Edmonds agreed to review requests for approval of continuing education hours and make recommendations to the board regarding approval/disapproval. Dr. Edmonds replaces Dr. Wilhite on the review committee.

Position Statement – Micro-chipping of Animals

Upon review and discussion, the board moved to adopt a position statement and the American Veterinary Medical Association's (AVMA) guidelines pertaining to electronic identification veterinary practices and procedures. The subcutaneous or intramuscular administration of an injectable transponder, also referred to as "micro-chipping", in an animal for an animal owner is an injection procedure and, therefore, constitutes the practice of veterinary medicine. The injection should be done by a licensed veterinarian or licensed veterinary medical technician under the employment and direct supervision of a licensed veterinarian.

Rules Status Report

Mr. Jerry Kosten, Regulations Manager, reported that a rulemaking hearing was held on July 13, 2005 regarding criminal background checks and replacement license/certificate fees. No comments were received at the rulemaking hearing. After review, a motion was made by Dr. Edmonds, seconded by Dr. Welch, to ratify the proposed rule change. The motion carried.

At the April 20, 2005 board meeting the use of non-narcotic sedatives/tranquilizers prior to euthanasia and the administration of these pre-euthanasia drugs by certified animal euthanasia technicians was discussed. The board requested that information be presented at the August, 2005 meeting addressing this issue. Upon review and discussion, the board moved to approve Xylozene and Acepromazine as pre-euthanasia drugs to be used by certified animal euthanasia

technicians working in a certified animal control agency. These drugs are non-narcotic, non-scheduled, and may only be obtained through a licensed veterinarian.

Mr. Kosten reviewed proposed rule changes/additions regarding the use of professional titles as pertains to the practice of veterinary medicine per Public Chapter No. 467. After review and discussion, a motion was made to authorize a rulemaking hearing regarding the approved pre-euthanasia drugs and the use of professional titles by licensees of the board. The motion carried. A hearing is scheduled to take place on November 22, 2005. Notices of rulemaking hearings are posted on the Internet and may be accessed via the Department of Health's home page.

Office of General Counsel (OGC) Report

Ms. Nicole Armstrong, Advisory Attorney, informed the Board there are currently three sets of rules under review at the Office of the Attorney General. The Office of General Counsel currently has twenty-two (22) open cases pertaining to the Tennessee Board of Veterinary Medical Examiners. One (1) case involves a veterinary facility; the remaining twenty-one (21) cases involve veterinarians.

Investigations and Disciplinary Report

Ms. Lea Phelps, Disciplinary Coordinator, reviewed the reports with the Board. There are currently eighty-eight (88) open complaints in the Office of Investigations. A total of twenty-five (25) new complaints were received during the period of April – July, 2005. An analysis of newly filed complaints categorized by allegation and month received and by geographical area and month received was included. The disciplinary report indicated that fifteen (15) individuals are currently being monitored for compliance with Board orders. A report of all disciplinary action taken by the Board was also included.

Inspection Report

Dr. Robert Taylor, Board Consultant/Inspector, reviewed the inspection report. A total of seventy-six (76) inspections were conducted during the period of April, 2005 – July, 2005.

Director's Report

Ms. Lampley informed the Board that there had been no notification received regarding the replacement of Dr. Wilhite whose term on the board expired 08-01-05. It was noted that Dr. Wilhite's efforts and contributions to the board were greatly appreciated. The Veterinary Technician National Examination (VTNE) was given on June 17, 2005 to twenty-three(23) candidates. Fifteen (15) of the candidates received a passing score. The next North American Veterinary Licensing Examination (NAVLE)testing window will be November 14 – December 10, 2005. The board has received approximately eighty (80) licensure applications from candidates wishing to take the exam through our licensing board. The anticipated move date of Health Related Boards to the new location at Metro Center is October 15, 2005. The new location will be 3rd Floor, 227 French Landing. Telephone numbers for the board will remain the same. The following statistical information was provided:

Status Report of Total Active Licensees as of August 15, 2005:

Veterinarians:	1,640
Veterinary Medical Technicians:	320
Veterinary Facilities:	562
Certified Animal Euthanasia Technicians:	143
Certified Animal Control Agencies:	41

License Activity for period of May 1 – August 15, 2005:

	<u>Newly Licensed</u>	<u>Reinstated</u>	<u>Retired</u>	<u>Renewals</u>
DVM:	90	3	32	215*
LVMT:	16	0	1	32**
VMF:	8	n/a	n/a	41
CAET:	19	1	0	8
C.A.C.A.	0	n/a	n/a	7

*23 Web Renewals

** 7 Web Renewals

Financial Report

A copy of the last financial report was available for review. It was noted that the current year net @ June 30, 2005 is projected to be \$59, 198.12.

Continuing Education Course Approval

The following requests for approval of continuing education hours were received:

A request from the **Bayer Animal Health** for approval of two (2) continuing education hours for a course entitled “Patient First Therapy: A Rational Approach to Complicated Bacterial Infections” held on June 9, 2005.

A request from **Fort Dodge Animal Health** for approval of two (2) continuing education hours for a presentation on the topic of “The Re-emergence of Canine Leptospirosis in the U.S.” held on May 19, 2005 in Nashville, Tennessee.

A request from **Merial** for approval of two (2) continuing education hours for the dinner presentation: “Previcox – A New Coxib NSAID” held in Knoxville, Tennessee on June 28, 2005 and on July 12, 2005 in Chattanooga, Tennessee.

A request from **Pfizer Animal Health** for approval of one (1) continuing education hour for a presentation entitled “Science of Sedation: Utilizing Alpha-2 /Agonists and their Reversal Agents for Sedation and Analgesia” held on various dates and locations.

A request from **Pfizer Animal Health** for approval of eight (8) continuing education hours for a presentation entitled “Practice Management and How to Become a Better Leader in Your Practice” held on May 18, 2005 in Memphis, TN.

A request from **Schering-Plough** for approval of seven (7) continuing education hours for the Schering-Plough Fall Educational Conference for Veterinarians to be held September 16 – 18, 2005 in Kansas City, KS.

A motion to approve all courses was made by Dr. Welch and seconded by Dr. Edmonds. The motion carried.

File Review/Ratification

The Board reviewed an application for initial licensure as a veterinarian submitted by **Elizabeth M. Benson, DVM**. Dr. Benson answered “yes” to the application question pertaining to any medical condition which in any way impairs or limits the ability to practice veterinary medicine with reasonable skill and safety. After review and discussion, a motion to approve the application was made by Dr. Welch and seconded by Ms. Gordon. The motion carried.

The Board reviewed an application for licensure reinstatement as a veterinarian submitted by **Clayborne K. Glenn, DVM**. Dr. Glenn answered “yes” to the application question pertaining to the denial of a state or federal controlled substance certificate. After review and discussion, a motion was made by Dr. Welch, seconded by Dr. Edmonds, to request Dr. Glenn’s appearance for an interview at the next scheduled board meeting. The motion carried.

The Board reviewed a reinstatement application submitted by **Jeffrey W. Record, DVM**. Dr. Record answered “yes” to the application question pertaining to any medical condition which in any way impairs or limits the ability to practice veterinary medicine with reasonable skill and safety. After review and discussion, a motion to approve the application was made by Dr. Edmonds and seconded by Dr. Welch. The motion carried.

Upon review, the Board moved to ratify all newly licensed/certified or reinstated veterinarians, veterinary medical technicians, veterinary facilities, certified animal euthanasia technicians, and certified animal control agencies.

Correspondence

The Board reviewed all correspondence. Ms. Nicole Armstrong, Advisory Attorney, will respond on behalf of the board.

Election of Officers

Due to the absence of Dr. Wilhite and Ms. Grell, Secretary of the Board, the election of officers was postponed until the December 8-9, 2005 board meeting.

2006 Meeting Dates

The following dates were proposed for calendar year 2006:

April 19-20

August 24-25

December 13-14

Board members were instructed to notify Ms. Lampley if there was a conflict with any of the dates.

Adjournment

There being no further business to discuss, Dr. Thompson made a motion, seconded by Dr. Edmonds, to adjourn. The motion carried and the meeting was adjourned at 5:28 p.m.

Maryann Grell, L.V.M.T., Secretary

Date

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